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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,719	02/08/2001	Edward G. Tiedemann JR.	PA792D1	5285
23696 7590 04/06/2007 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121			EXAMINER NGUYEN, TOAN D	
			ART UNIT	PAPER NUMBER
			2616	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/06/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/06/2007.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/779,719	TIEDEMANN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Toan D. Nguyen	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-6, 8-9, and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Hulbert (US 5,713,074).

For claim 1, Hulbert discloses mobile radio power control device using the comparison of retransmitted data, comprising the steps of:

(A) intentionally transmitting traffic information from the base station (figure 2, reference 20) with a first symbol energy amount that is insufficient for correct demodulation of the traffic information by a mobile station (figure 2, reference 22)(col. 3 lines 7-10 and col. 3 lines 17-20);

(B) after step (A), retransmitting the traffic information initially transmitted with the first symbol energy amount from the base station to the mobile station, wherein the traffic information is retransmitted in step (B) with a further symbol energy amount that is also insufficient by itself for correct demodulation of the traffic information by the mobile station (col. 3 lines 17-20); and

(C) repeating step (B) until a sum of the symbol energy amounts used to transmit the traffic information initially transmitted with insufficient symbol energy for correct

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demodulation is great enough to permit correct demodulation by the mobile station (col. 3 lines 7-24, and col. 4 lines 1-10).

For claim 4, Hulbert discloses further comprising the steps of:

(D) determining, at the mobile station, a received energy value corresponding to the traffic information transmitted from the base station in step (A)(col. 3 lines 14-17);  
and

(E) transmitting the received energy value from the mobile station to the base station (col. 3 lines 7-10);

(F) wherein the further symbol energy amount used for re-transmitting the traffic information in step (B) is determined at the base station in accordance with the received energy value transmitted from the mobile station (col. 3 lines 21-24).

For claim 5, Hulbert discloses wherein the received energy value is transmitted from the mobile station to the base station using an acknowledgement protocol (col. 3 lines 7-10).

For claim 6, Hulbert discloses wherein acknowledgement protocol is transmitted between the base station and the mobile station using forward and reverse control channels (col. 3 lines 7-10).

For claim 8, Hulbert disclose wherein the received energy value is transmitted from the mobile station to the base station using a negative acknowledgement protocol (col. 3 lines 7-10).

For claim 9, Hulbert disclose wherein acknowledgement protocol is transmitted between the base station and the mobile station using forward and reverse control

channels (col. 3 lines 7-10).

For claim 11, Hulbert discloses further comprising the step of:

(D) summing the traffic information transmitted with the first symbol energy amount in step (A) with the traffic information transmitted with the further symbol energy amount in step B) by combining received energy associated with the traffic information transmitted with the first symbol energy amount in step (A) with received energy associated with the traffic information transmitted with the further symbol energy amount in step (B) in a buffer at the mobile station (col. 3 lines 21-24, and col. 4 lines 1-10); and

(E) demodulating the traffic information at the mobile station in accordance with the result of step (D)(col. 3 lines 7-10, and col. 4 lines 1-10).

For claim 12, Hulbert discloses mobile radio power control device using the comparison of retransmitted data, comprising:

(A) a power allocation unit at the base station controller (figure 2, reference 20) that selects a first symbol energy amount for transmitting traffic information from the base station transceiver to the mobile station (figure 2, reference 22), wherein the first symbol energy amount is insufficient for correct demodulation of the traffic information by the mobile station, and the power allocation unit selects a further symbol energy amount for re-transmitting the traffic information from the base station transceiver to the mobile station, wherein the further symbol energy amount is also insufficient by itself for correct demodulation of the traffic information by the mobile station (col. 3 lines 17-24);

(B) a base station transmitter that initially transmits the traffic information from the base station transceiver to the mobile station at the first symbol energy amount and

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subsequently transmits the traffic information from the base station transceiver to the mobile station at the further symbol energy amount (col. 3 lines 21-24); and

(C) a buffer (figure 2, reference 26) that combines retransmitted traffic information until a sum of the symbol energy amounts used to transmit the traffic information initially transmitted with insufficient symbol energy for correct demodulation is great enough to permit correct demodulation by the mobile station (col. 3 lines 7-24, and col. 4 lines 1-10).

For claim 13, Hulbert discloses mobile radio power control device using the comparison of retransmitted data, comprising:

(A) a power allocation unit at the base station (figure 2, reference 20) that selects a first symbol energy amount for transmitting traffic information from the base station to the mobile station (figure 2, reference 22), wherein the first symbol energy amount is insufficient for correct demodulation of the traffic information by the mobile station, and the power allocation unit selects a further symbol energy amount for re-transmitting the traffic information from the base station to the mobile station, wherein the further symbol energy amount is also insufficient by itself for correct demodulation of the traffic information by the mobile station (col. 3 lines 7-24); and

(B) a base station transmitter (figure 2, reference 20a) that initially transmits the traffic information from the base station to the mobile station at the first symbol energy amount and subsequently transmits the traffic information from the base station to the mobile station at the further symbol energy amount (col. 3 lines 21-24); and

(C) a buffer (figure 2, reference 26) that combines retransmitted traffic

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information until a sum of the symbol energy amounts used to transmit the traffic information initially transmitted with insufficient symbol energy for correct demodulation is great enough to permit correct demodulation (col. 3 lines 7-24, and col. 4 lines 1-10).

For claim 14, Hulbert discloses mobile radio power control device using the comparison of retransmitted data, comprising:

(A) means for intentionally transmitting traffic information from the base station with a first symbol energy amount that is insufficient for correct demodulation of the traffic information by a mobile station (col. 3 lines 7-10, and col. 3 lines 17-20); and

(B) means for re-transmitting the traffic information with a further symbol energy amount that is also insufficient by itself for correct demodulation of the traffic information by the mobile station (col. 3 lines 17-20); and

(C) means for repeating step (B) until a sum of the symbol energy amounts used to transmit the traffic information initially transmitted with insufficient symbol energy for correct demodulation is great enough to permit correct demodulation by the mobile station (col. 3 lines 7-24, and col. 4 lines 1-10).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hulbert (US 5,713,074) in view of Jalali et al. (US 6,154,659).

For claim 3, Hulbert does not expressly disclose wherein the further symbol energy amount used for re-transmitting the traffic information in step (B) is determined at the base station using fast forward power control. In an analogous art, Jalali et al. disclose wherein the further symbol energy amount used for re-transmitting the traffic information in step (B) is determined at the base station using fast forward power control (figure 1, col. 6 lines 12-22).

One skilled in the art would have recognized the wherein the further symbol energy amount used for re-transmitting the traffic information in step (B) is determined at the base station using fast forward power control, and would have applied Jalali et al.'s fast forward link power control system in Hulbert's power control device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Jalali et al.'s fast forward link power control in a code division multiple access system in Hulbert's mobile radio power control device using the comparison of retransmitted data with the motivation being adjusted as rapidly as possible (col. 6 lines



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12-14).

6. Claims 7 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Hulbert (US 5,713,074) in view of Seo (US 6,581,176).

For claims 7 and 10, Hulbert does not expressly disclose wherein the traffic information is transmitted in steps (A) and (B) on a supplemental channel, and the forward and reverse control channels have a lower error rate than the supplemental channel. In an analogous art, Seo discloses wherein the traffic information is transmitted in steps (A) and (B) on a supplemental channel, and the forward and reverse control channels have a lower error rate than the supplemental channel (col. 1 lines 53-55).

Seo discloses wherein the traffic information is transmitted in steps (A) and (B) on a supplemental channel, and the forward and reverse control channels have a lower error rate than the supplemental channel (col. 1 lines 53-55 as set forth in claim 10).

One skilled in the art would have recognized the wherein the traffic information is transmitted in steps (A) and (B) on a supplemental channel, and the forward and reverse control channels have a lower error rate than the supplemental channel, and would have applied Seo's SCH in Hulbert's power control device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Seo's method for transmitting control frames and user data frames in mobile radio communication system in Hulbert's mobile radio power control device using the comparison of retransmitted data with the motivation being transmitted the NAK control frames over a supplemental channel (SCH) (col. 1 lines 53-54).

***Response to Arguments***

7. Applicant's arguments with respect to claims 1, and 3-14 have been considered but are moot in view of the new ground(s) of rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D. Nguyen whose telephone number is 571-272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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